



Mark C. Moore
Member

May 11, 2020

VIA ECF

The Honorable Timothy M. Cain
United States District Judge
315 South McDuffie Street
Anderson, South Carolina

Re: Defendants' Concerns with Respect to the Proposed Trial Date set by the Amended Scheduling Order in *United States of America, ex rel. Charles R. Shepherd et al. v. Fluor Corporation, Inc. et al.*, C/A No.: 6:13-cv-02428-TMC

Dear Judge Cain:

Charleston
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On May 4, 2020, the Court issued an Amended Scheduling Order, in the above referenced case (ECF No. 190) which contained deadlines that differed from those set forth in the Proposed Consent Amended Scheduling Order submitted jointly by the Parties on April 30, 2020. (ECF No. 184-1). The Amended Scheduling Order tentatively set the case for trial during the month of June, 2021 and contained the Court's standard notification to the Parties: "You are expected to be available for trial of this case during the month of June 2021 . . . If you presently have a conflict during the month of June [2021], notify the court in writing within seven (7) days of the date of this order." (ECF No. 190 at 3).

Defendants Fluor Corporation and Fluor Intercontinental, Inc. (collectively "Fluor"), by and through their undersigned counsel, hereby notify the Court as directed about a potential conflict with the June, 2021 term for a trial of this case. While Fluor and its counsel do not have any conflicts that would prohibit them from personally appearing before the Court during the June, 2021 term, Fluor respectfully submits that it should not be required to try both this case and the related case of *United States of America, ex rel. Robert Scott Dillard v. Fluor Corporation, Inc. et al.*, C/A No.: 6:16-cv-02948-TMC (hereinafter "*Dillard*") during the same term.

1230 Main Street
Suite 700 (29201)
PO BOX 2426
Columbia, SC 29202
www.nexsenpruet.com

T 803.540.2146
F 803.727.1458
E MMoore@nexsenpruet.com
Nexsen Pruet, LLC
Attorneys and Counselors at Law

The Honorable Timothy M. Cain
May 11, 2020
Page 2

Relator Dillard is a party to both cases, Fluor is a defendant in both cases, and both cases arise out of the same general set of facts related to Fluor's management of its LOGCAP IV contract in Afghanistan. Fluor submits that it would be highly prejudicial to Fluor to require it to select a jury for both cases before the same jury venire.

Second, Fluor respectfully submits that it would be virtually impossible to try both cases during the same jury term. Fluor believes that the *Dillard* trial will likely take between three and five days—however, both Fluor and the Relators believe that a trial of this case could exceed four to five weeks.

Fluor notes that it has conferred with opposing counsel and all parties have concerns about their ability to adequately prepare this case for trial in the time period allowed by the Amended Scheduling Order given the complexity of this case and the sheer volume of anticipated discovery. All parties intend to address this issue with the Court when they file their Local Rule 26.03 responses on June 22, 2020. In order to comply with the Court's directive that it notify the Court of any conflicts with a June 2021 trial, Fluor believes that this filing is necessary for it to comply with the Court's Order of May 4, 2020.

Respectfully,

s/ Mark C. Moore

Mark C. Moore

cc (via ECF): Craig D. Margolis (Counsel for Fluor)
Christian D. Sheehan (Counsel for Fluor)
Konstantine P. Diamaduros (Counsel for Fluor)
Anand Swaminathan (Counsel for Relators Shepherd and Rude)
Alison R. Leff (Counsel for Relators Shepherd and Rude)
Frank T. Newell (Counsel for Relators Shepherd and Rude)
Machael Kanovitz (Counsel for Relators Shepherd and Rude)
Richard A. Harpootlian (Counsel for Relators Shepherd and Rude)
Christopher P. Kenney (Counsel for Relators Shepherd and Rude)
Frank L. Eppes (Counsel for Relator Dillard)
Judah N. VanSyckel (Counsel for Relator Mackey)